

MONTANA LEGISLATIVE HISTORY

Chapter 254 1999

Bill H _____ S 488

Original bill & history ☒ c

H. Committee on Local Govt

Hearing Date(s) _____ c

3/11 ☒ c

_____ c

_____ c

Date Out

3/11 ☒ c

S. Committee on State Admin

Hearing Date(s) _____ c

2/18 ☒ c

_____ c

_____ c

out 2/18 ☒

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

LEGISLATIVE HISTORIES SINCE 1997

The scope and depth of legislative committee minutes varies by year and by committee. If you would like additional information about a hearing, you may want to determine whether the hearing was recorded. In addition, some recent floor debates were also recorded. For information on accessing or purchasing these recordings, contact the Historical Society Archives at 406-444-4774.

If you have concerns regarding the format of the enclosed committee minutes or the recordings of the hearings, it is suggested that you contact your state legislators.

HISTORY AND FINAL STATUS 1999

1/08	Fiscal Note Needed		
2/13	Introduced and 1st Reading		
2/13	Referred to Taxation		
2/13	Fiscal Note Requested		
2/18	Fiscal Note Received		
2/18	Fiscal Note Signed		
2/19	Fiscal Note Printed		
3/02	Hearing		
3/04	Committee Executive Action--Bill Passed	8	0
3/04	Committee Report--Bill Passed		
3/05	2nd Reading Passed	49	1
3/06	3rd Reading Passed	47	1
	Transmitted to House		
3/08	Referred to Taxation		
3/30	Hearing		
4/09	Committee Executive Action--Bill Concurred as Amended	20	0
4/09	Committee Report--Bill Concurred as Amended		
4/13	2nd Reading Concurred	100	0
4/14	3rd Reading Concurred	94	4
	Returned to Senate with Amendments		
4/15	2nd Reading House Amendments Concurred	50	0
4/16	3rd Reading Passed as Amended by House	50	0
4/16	Sent to Enrolling		
4/19	Returned from Enrolling		
4/20	Signed by President		
4/21	Signed by Speaker		
4/22	Transmitted to Governor		
4/30	Signed by Governor		
5/04	Chapter Number Assigned		
	Chapter Number 551		
	Effective Date: 4/30/1999 - All Sections		

SB 488 Introduced by Bartlett

LC0894 Drafter: Niss

Revise the Law Relating to the Election or Appointment of the Governing Bodies of County Water and Sewer Districts, Urban Transportation Districts, County Park Districts, Rural Fire Districts, Fire Service Areas, Hospital Districts, Conservation Districts, and Irrigation Districts;...

2/13	Introduced and 1st Reading		
2/13	Referred to State Administration		
2/18	Hearing		
2/19	Committee Executive Action--Bill Passed	5	0
2/20	Committee Report--Bill Passed		
2/22	2nd Reading Passed	49	0
2/23	3rd Reading Passed	49	0
	Transmitted to House		
3/02	Referred to Local Government		
3/11	Hearing		
3/12	Committee Executive Action--Bill Concurred	13	0
3/12	Committee Report--Bill Concurred		
3/26	2nd Reading Concurred	94	4
3/27	3rd Reading Concurred	95	4

Returned to Senate

SENATE BILLS AND RESOLUTIONS

271

3/27 Sent to Enrolling
 3/29 Returned from Enrolling
 3/30 Signed by President
 3/31 Signed by Speaker
 3/31 Transmitted to Governor
 4/05 Signed by Governor
 4/06 Chapter Number Assigned
 Chapter Number 254
 Effective Date: 10/01/1999 - All Sections

SB 489 Introduced by Bohlinger, et al.

LC1199 Drafter: Fox

Allocate Tobacco Settlement Proceeds for a Tobacco Disease and Use Prevention Program, Comprehensive Health Care for Children, and Medical Services Paid by the General Fund;...

2/13	Introduced and 1st Reading		
2/13	Referred to Public Health, Welfare and Safety		
2/13	Fiscal Note Requested		
2/19	Hearing		
2/20	Fiscal Note Received		
2/20	Fiscal Note Signed		
2/20	Committee Executive Action--Bill Passed	8	3
2/20	Committee Report--Bill Passed		
2/22	Fiscal Note Printed		
2/23	2nd Reading Pass Motion Failed	21	28
2/23	2nd Reading Indefinitely Postponed	28	21

SB 490 Introduced by Glaser

LC1637 Drafter: Niss

Require Prompt Payment for Construction Contractors and Subcontractors;...

2/13	Introduced and 1st Reading		
2/13	Referred to Highways and Transportation		
2/15	Fiscal Note Requested		
2/16	Rereferred to Business and Industry		
2/18	Hearing		
2/19	Fiscal Note Received		
2/19	Fiscal Note Signed		
2/19	Fiscal Note Printed		
2/19	Committee Executive Action--Bill Passed as Amended	6	1
2/20	Committee Report--Bill Passed as Amended		
2/22	2nd Reading Passed	49	0
2/23	3rd Reading Passed	49	0
	Transmitted to House		
3/02	Referred to Business and Labor		
3/22	Hearing		
3/25	Committee Executive Action--Bill Concurred as Amended	17	1
3/25	Committee Report--Bill Concurred as Amended		
3/29	2nd Reading Concurred	64	31
3/30	3rd Reading Concurred	58	41
	Returned to Senate with Amendments		
4/08	2nd Reading House Amendments Concurred	50	0
4/09	3rd Reading Passed as Amended by House	50	0
4/12	Sent to Enrolling		
4/13	Returned from Enrolling		

Senate BILL NO. 488

INTRODUCED BY

Bartlett
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW RELATING TO THE ELECTION OR APPOINTMENT OF THE GOVERNING BODIES OF COUNTY WATER AND SEWER DISTRICTS, URBAN TRANSPORTATION DISTRICTS, COUNTY PARK DISTRICTS, RURAL FIRE DISTRICTS, FIRE SERVICE AREAS, HOSPITAL DISTRICTS, CONSERVATION DISTRICTS, AND IRRIGATION DISTRICTS; AND AMENDING SECTIONS 7-1-201, 7-13-2258, 7-13-2262, 7-14-212, 7-16-2421, 7-33-2106, 7-33-2403, 7-34-2117, 7-34-2121, 76-15-303, AND 85-7-1702, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-1-201, MCA, is amended to read:

"7-1-201. Boards. (1) A board of county commissioners may by resolution establish the administrative boards, districts, or commissions allowed by law or required by law to be established pursuant to 7-1-202, 7-1-203, and this section and listed in 7-1-202. The resolution creating an administrative board, district, or commission must specify:

- (a) the number of board, district, or commission members;
- (b) the terms of the members;
- (c) whether members are entitled to mileage, per diem, expenses, and salary; and
- (d) any special qualifications for membership in addition to those established by law.

(2) (a) An administrative board, district, or commission may be assigned responsibility for a department or service district.

(b) An administrative board, district, or commission may:

- (i) exercise administrative powers as granted by resolution, except that it may not pledge the credit of the county or impose a tax unless specifically authorized by state law;
- (ii) administer programs, establish policy, and adopt administrative and procedural rules.

(c) The resolution creating an administrative board, district, or commission must grant the board, district, or commission all powers necessary and proper to the establishment, operation, improvement, maintenance, and administration of the department or district.

(d) If authorized by resolution, an administrative board, district, or commission may employ personnel to assist in its functions.

(3) (a) Administrative boards, districts, and commissions may be made elective.

(b) If an administrative board is made elective and if the number of candidates is equal to or less than the number of positions to be elected, the election administrator may cancel the election in accordance with 13-1-304. A position for which there were no nominees must be filled by appointment by the county commissioners for the same term as if the position were filled by election. If there is only one nominee for a position, the nominee may be declared elected by acclamation.

(4) Administrative boards, districts, and commissions may not sue or be sued independently of the local government unless authorized by state law.

(5) Members must be appointed by the county commissioners. The county commissioners shall post prospective membership vacancies at least 1 month prior to filling the vacancy.

(6) The county commissioners shall maintain a register of appointments, including:

(a) the name of the board, district, or commission;

(b) the date of appointment and confirmation, if any is required;

(c) the length of term;

(d) the name and term of the presiding officer and other officers of each administrative board, district, or commission; and

(e) the date, time, and place of regularly scheduled meetings.

(7) Terms of all members, except elected members, may not exceed 4 years. Unless otherwise provided by resolution, members shall serve terms beginning on July 1 and shall serve at the pleasure of the county commissioners.

(8) An administrative board, district, or commission must consist of a minimum of 3 members and must have an odd number of members.

(9) The resolution creating an administrative board, district, or commission may provide for voting or nonvoting ex officio members.

(10) Two or more local governments may provide for joint boards, districts, or commissions to be established by interlocal agreements.

(11) A majority of members constitutes a quorum for the purposes of conducting business and exercising powers and responsibilities. Action may be taken by a majority vote of members present and

1 voting, unless the resolution creating the board, district, or commission specifies otherwise.

2 (12) An administrative board, district, or commission shall provide for the keeping of written
3 minutes, including the final vote on all actions and the vote of each member.

4 (13) An administrative board, district, or commission shall provide by rule for the date, time, and
5 place of regularly scheduled meetings and file the information with the county commissioners.

6 (14) Unless otherwise provided by law, a person must be a resident of the county to be eligible
7 for appointment to an administrative board, district, or commission. The county commissioners may
8 prescribe by resolution additional qualifications for membership.

9 (15) A person may be removed from an administrative board, district, or commission for cause
10 by the county commissioners or as provided by resolution.

11 (16) A resolution creating an administrative board, district, or commission must contain, if
12 applicable, budgeting and accounting requirements for which the board, district, or commission is
13 accountable to the county commissioners."

14

15 Section 2. Section 7-13-2258, MCA, is amended to read:

16 "7-13-2258. Effect of failure to qualify for office. If a person elected fails to qualify, the office
17 shall must be filled as if there were a vacancy in ~~such~~ the office as provided in 7-13-2262(2)."

18

19 Section 3. Section 7-13-2262, MCA, is amended to read:

20 "7-13-2262. ~~Vacancies~~ Insufficient candidates -- vacancies on board of directors -- appointment
21 of entire board. (1) If the number of candidates is equal to or less than the number of positions to be
22 elected, the election administrator may cancel the election in accordance with 13-1-304. If an election
23 is not held, the board of directors shall declare elected by acclamation the candidate who filed a
24 nominating petition for the position. If no candidate filed a nominating petition for the position, the board
25 of directors shall make an appointment to fill the position and the term is the same as if the director were
26 elected.

27 (2) Any Except as provided in subsections (3) and (4), any vacancy in the board of directors,
28 whether the vacant office is elective or appointive, shall must be filled by the remaining directors.

29 (3) If there are no directors remaining on the board and no nominees for any director position to
30 be elected, the county commissioners may appoint the number of directors specified in 7-13-2232(1).

1 If the district lies in more than one county, the county commissioners of each county with territory
2 included in the district shall jointly appoint the directors. The county commissioners shall stagger the
3 terms of the directors appointed.

4 (4) If the boundaries of the district include any municipality or municipalities and a new board
5 must be appointed as provided in subsection (3), the board shall include one additional director to be
6 appointed by the mayor of the municipality for which the additional director is allowed.

7 (5) Following the appointment of a board in accordance with subsection (3), the directors must
8 be elected as provided in this part."

9

10 Section 4. Section 7-14-212, MCA, is amended to read:

11 "7-14-212. District to be governed by transportation board. (1) The district must be governed by
12 a transportation board. The commissioners and the governing bodies of each city or town included or
13 partially included in the district shall determine if the board is to be elected or appointed.

14 (2) The commissioners and the governing body by resolution shall:

15 (a) determine the number of board members;

16 (b) set the term of office;

17 (c) determine the makeup of the board with respect to the number of appointed members that
18 will represent each county, city, or town;

19 (d) establish a procedure for selecting the initial members of an elected board. The initial members
20 shall serve until the first county general election after their appointment.

21 (e) determine the number of candidates for an elected board whose names must be placed on
22 the ballot in the county general election, based on the results of the primary election; and

23 (f) establish a procedure for filling vacancies on the board, including a provision for public notice.

24 (3) The commissioners and the governing body may, at any time, adopt a resolution changing the
25 method by which the members of the board are selected. The resolution must contain a provision that
26 the term of office of the current members of the board may not be shortened.

27 (4) If the board is elected and if the number of candidates is equal to or less than the number of
28 positions to be elected, the election administrator may cancel the election in accordance with 13-1-304.
29 If an election is not held, the board shall declare elected by acclamation each candidate who filed a
30 nominating petition for a position.

1 (5) If there are no nominees for an elective office of a member of the board, the vacancy must
2 be filled as provided in subsection (2)(f).

3 (6) A member of the board taking office pursuant to subsection (4) or (5) serves a term of office
4 as if elected to that office."

5
6 Section 5. Section 7-16-2421, MCA, is amended to read:

7 "7-16-2421. Election or appointment of commissioners. (1) After appointment of the initial
8 commission and except in the case of vacancies, all members of the county park district commission must
9 be elected by the electors of the district.

10 (2) The election of members to the commission must be held in conjunction with the school
11 elections held pursuant to 20-3-304.

12 (3) Candidates for the office of member of the county park district commission must be
13 nominated by petition filed with the office of the election administrator not earlier than 135 days or later
14 than 75 days prior to the election day and signed by at least five electors of the district.

15 (4) If the county park district lies in more than one county, the petition for nomination must be
16 presented to the election administrator whose county contains the largest percentage of the territory of
17 the district.

18 (5) If the number of candidates is equal to or less than the number of positions to be elected, the
19 election administrator may cancel the election in accordance with 13-1-304. If an election is not held, the
20 county governing body shall declare elected by acclamation each candidate who filed a nominating
21 petition for a position. If no nomination petition is filed for an office, the county governing body shall
22 appoint a member to fill the term. A person appointed pursuant to this subsection has the same term and
23 obligations as a person elected to fill the office. ~~If there are no petitions of nomination for members of~~
24 ~~the commission, no election need be held.~~

25 (6) The term of office of elected members commences upon their being elected and qualified. The
26 term of office of an elected member of the county park district commission is 4 years, except that a
27 simple majority of the members of the first elected board shall serve terms of 2 years, with a minority of
28 the board serving terms of 4 years. The members serving 2-year terms must be selected by lot.

29 (7) A vacancy ~~in the~~ occurring during the term of office of a member must be filled by
30 appointment by the remaining members of the commission. The term of the appointed member expires

1 upon the election and qualification of an elected successor or upon the election of a member to fill the
2 unexpired term of the vacant office. The election must be held at the next scheduled school election held
3 pursuant to 20-3-304."

4

5 Section 6. Section 7-33-2106, MCA, is amended to read:

6 "7-33-2106. Details relating to board of trustees of fire district. (1) (a) The five trustees initially
7 appointed by the county commissioners ~~shall~~ hold staggered terms of office until their successors are
8 elected or appointed and qualified as ~~hereinafter~~ provided in this section.

9 (b) The initial trustees' terms of office ~~shall~~ must be drawn by lot and include:

10 (i) 3 years for one trustee;

11 (ii) 2 years for two trustees; and

12 (iii) 1 year for two trustees.

13 (c) Upon expiration of the terms provided in subsection (1)(b), each trustee shall serve a 3-year
14 term of office.

15 (2) Trustees ~~shall~~ must be elected as provided in ~~subsection (3) of this section~~, 13-1-104(3), and
16 13-1-401, and subsection (3) of this section or appointed as provided in subsection (4) of this section.
17 The term of office ~~shall be~~ is 3 years beginning at the first district meeting following their election or
18 appointment and continuing until their successors are elected or appointed and qualified. Appointments
19 to fill vacancies ~~shall~~ occurring during the term of office of a trustee must be made by the county
20 governing body and appointees shall hold office until the next regular election. An elector, as defined in
21 Title 13, who resides in the district or any holder of title to lands within the district who presents a proof
22 of payment of taxes on the lands at the polling place is eligible to vote in the election.

23 (3) Candidates for the office of trustee of the fire district to be filled by election may be
24 nominated by petition filed with the election administrator or deputy election administrator at least 75
25 days before the election day and signed by at least five electors of the district.

26 (4) If the number of candidates is equal to or less than the number of positions to be elected, the
27 election administrator may cancel the election in accordance with 13-1-304. If an election is not held,
28 the county governing body shall declare elected by acclamation each candidate who filed a nominating
29 petition for a position. If no nominations are a nomination is not made for one or more trustee offices,
30 the county governing body shall appoint one or more trustees as necessary to fill those offices. A trustee

1 taking office pursuant to this subsection serves the trustee term of office as if that trustee had been
2 elected.

3 (5) The trustees shall organize by choosing a ~~chairman~~ presiding officer and appointing one
4 member to act as secretary."

5
6 **Section 7.** Section 7-33-2403, MCA, is amended to read:

7 **"7-33-2403. Operation of fire service area.** (1) Whenever the board of county commissioners has
8 established a fire service area, the commissioners may:

9 (a) govern and manage the affairs of the area;

10 (b) appoint five qualified trustees to govern and manage the affairs of the area; or

11 (c) authorize the election of five qualified trustees to govern and manage the affairs of the area.

12 The term of office and procedures for nomination and election are the same as those provided for election
13 of rural fire district trustees in 7-33-2106.

14 (2) If the commissioners appoint trustees under subsection (1), the provisions of 7-33-2105 apply
15 and 7-33-2106 ~~shall apply~~ applies whether the trustees are elected or appointed, except that the trustees
16 shall prepare annual budgets and request a schedule of rates ~~therefor~~ for the budget."

17
18 **Section 8.** Section 7-34-2117, MCA, is amended to read:

19 **"7-34-2117. Procedure for the conduct of election for trustees -- appointment of trustees.** (1) All
20 elections of trustees following the election of the first board of trustees ~~shall~~ must be conducted at the
21 time provided in 13-1-104(3) and in the manner provided by 13-1-401.

22 (2) Candidates for the office of trustee must be nominated by petition filed with the election
23 administrator or deputy election administrator at least 75 days before the election day and signed by at
24 least five electors of the district.

25 (3) If there is no nomination petition filed, it ~~shall~~ is not be necessary to hold an election but the
26 board of county commissioners shall appoint a trustee to fill the term, ~~the term to be the same as if the~~
27 ~~trustee were elected.~~ If there is only one nominee for a ballot position, it is not necessary to hold an
28 election for that position and the board of county commissioners shall declare elected by acclamation the
29 candidate who filed a nominating petition for the position.

30 (4) A member of the board taking office pursuant to subsection (3) serves a term of office as if

1 elected to that office."

2

3 Section 9. Section 7-34-2121, MCA, is amended to read:

4 "7-34-2121. Vacancies. A vacancy upon the board of trustees occurring during the term of office
5 of a trustee or in the office of clerk ~~shall~~ must be filled by appointment by the remaining members, and
6 the appointee shall serve until the next ensuing election for trustees."

7

8 Section 10. Section 76-15-303, MCA, is amended to read:

9 "76-15-303. General election -- election by acclamation -- appointment. (1) All qualified electors
10 within the district are eligible to vote in the election.

11 (2) Except as provided in subsection (5), the candidate or, if more than one supervisor position
12 is to be filled by the general election, the candidates who receive the largest number, respectively, of the
13 votes cast in the election are the elected supervisors for the district.

14 (3) In the general election, the names of the individuals nominated must be printed, as provided
15 under 13-12-205, upon ballots, with a square before each name and a direction to insert an "X" mark in
16 the square before any three names to indicate the elector's preference.

17 (4) The election administrator in each county shall prepare suitable nonpartisan ballots or place
18 the names of candidates on the regular general election ballot in the same manner as other nonpartisan
19 candidates for the election of supervisors. The ballots must be delivered to the election judges in those
20 precincts that contain registered electors prior to each general election and each primary election, if
21 necessary. The election judges and other election officials in the precincts shall submit the ballots to
22 qualified electors, conduct the election, and tabulate the results of the election in the manner provided
23 in Title 13.

24 (5) (a) Except as provided in subsection (5)(b), if the number of candidates nominated is equal
25 to or less than the number of positions to be elected, the election administrator shall give notice that an
26 election will not be held.

27 (b) The governing body may require that an election be held if, not more than 10 days after the
28 close of filing by candidates, the governing body passes a resolution to hold an election and notifies the
29 election administrator.

30 (c) If an election is not held, the governing body shall declare elected by acclamation the

1 candidate who filed a nominating petition for the position. If ~~a~~ no candidate has ~~not~~ filed a nominating
2 petition for the position, the governing body shall make an appointment to fill the position. Supervisors
3 taking office pursuant to this subsection serve a term as if elected to the position."

4
5 Section 11. Section 85-7-1702, MCA, is amended to read:

6 "85-7-1702. ~~Regular election~~ Election or appointment of commissioners -- term of office. (1) The
7 regular election for commissioners in each district must be held annually in accordance with 13-1-104 and
8 13-1-401.

9 (2) Candidates for the office of commissioner may be nominated by petition filed with the election
10 administrator or deputy election administrator at least 75 days before the election and signed by at least
11 five electors of the district. If no nominations are made, the following procedures must be followed:

12 (a) For elections held in accordance with 13-1-401(1), the electors of the district shall write on
13 the ballots the name of the person or persons for whom they desire to vote.

14 (b) For elections held in accordance with 13-1-401(2), the electors of the district may either
15 accept nominations from the floor or write on the ballots the name of the person or persons for whom
16 they desire to vote.

17 ~~(3) If there is only one nominee for a ballot position, the nominee may be declared elected by~~
18 ~~acclamation or in accordance with 13-1-304. If the number of candidates is equal to or less than the~~
19 ~~number of positions to be elected, the election administrator may cancel the election in accordance with~~
20 ~~13-1-304. If an election is not held, the county governing body shall declare elected by acclamation the~~
21 ~~candidate who filed a nominating petition for the position. If no candidate filed a nominating petition for~~
22 ~~the position, the board of commissioners shall make an appointment to fill the position and the term is~~
23 ~~the same as if the commissioner were elected.~~

24 (4) Within 40 days following their election, the commissioners shall meet and organize as a board
25 by electing a president from their number and a secretary, who may or may not be a commissioner, and
26 who shall each hold office at the pleasure of the board. The term of office of each commissioner begins
27 on the date of the organizational meeting after the regular election and continues for 3 years and until the
28 election and qualification of ~~his~~ a successor.

29 (5) Commissioners are elected by the electors of the entire district."
30

- END -

INDEX TO BILLS IN COMMITTEE

June 30, 1999

- Committee: (S) State Administration -

05:11 PM

-
- SB 488** **SPONSOR:** Bartlett, Sue **SHORT TITLE:** Revise election procedures for certain areas and districts
 REFERRED ON: 02/13/1999 **HEARD ON:** 02/18/1999
 EXECUTIVE ACTION: 02/19/1999 Bill Passed -- VOTE: 5 - 0
 FINAL DISPOSITION 04/06/1999 Chapter Number Assigned
-
- SB 510** **SPONSOR:** Franklin, Eve **SHORT TITLE:** Corporate shareholder authorization for certain election purposes
 REFERRED ON: 02/17/1999 **HEARD ON:** 02/19/1999
 TABLED ON: 02/19/1999
 FINAL DISPOSITION 03/31/1999 (S) Missed Deadline for Revenue Bill Transmittal
-
- SB 513** **SPONSOR:** Berry, Dale **SHORT TITLE:** Insurance compliance self-evaluative privilege
 REFERRED ON: 02/18/1999 **HEARD ON:** 02/19/1999
 TABLED ON: 02/19/1999
 FINAL DISPOSITION 03/01/1999 (S) Missed Deadline for General Bill Transmittal
-
- SB 521** **SPONSOR:** Hargrove, Don **SHORT TITLE:** Allow sale of fireworks for millenium
 REFERRED ON: 03/04/1999 **HEARD ON:** 03/12/1999
 EXECUTIVE ACTION: 03/16/1999 Bill Passed -- VOTE: 5 - 0
 FINAL DISPOSITION 04/10/1999 Chapter Number Assigned
-
- SJ 4** **SPONSOR:** Beck, Tom **SHORT TITLE:** Implement capitol complex advisory council recommendations
 REFERRED ON: 01/18/1999 **HEARD ON:** 02/10/1999
 EXECUTIVE ACTION: 02/15/1999 Bill Passed as Amended -- VOTE: 5 - 0
 FINAL DISPOSITION 04/12/1999 (S) Filed with Secretary of State
-
- SJ 10** **SPONSOR:** Cole, Mack **SHORT TITLE:** Recognize Mike Mansfield and wife Maureen; authorize statue on capitol complex
 REFERRED ON: 02/11/1999 **HEARD ON:** 03/08/1999
 EXECUTIVE ACTION: 03/16/1999 Bill Passed as Amended -- VOTE: 5 - 0
 FINAL DISPOSITION 04/16/1999 (S) Filed with Secretary of State
-
- SJ 12** **SPONSOR:** Cole, Mack **SHORT TITLE:** Urge congress not to keep state tobacco settlement proceeds
 REFERRED ON: 02/15/1999 **HEARD ON:** 02/18/1999
 EXECUTIVE ACTION: 02/19/1999 Bill Passed -- VOTE: 5 - 0
 FINAL DISPOSITION 03/26/1999 (S) Filed with Secretary of State
-

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN MACK COLE**, on February 18, 1999 at 10:00 A.M., in Room 331 Capitol.

ROLL CALL

Members Present:

Sen. Mack Cole, Chairman (R)
Sen. Don Hargrove, Vice Chairman (R)
Sen. Jon Tester (D)
Sen. Jack Wells (R)
Sen. Bill Wilson (D)

Members Excused: None.

Members Absent: None..

Staff Present: Keri Burkhardt, Committee Secretary
David Niss, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 471, SB 488, 2/13/1999;
SJ 12, 2/15/1999

Executive Action: SB 228, SB 382, SB 405, SB
455, SB 457, SB 488, SJ 12

HEARING ON SB 488

Sponsor: SEN. SUE BARTLETT, SD 27, HELENA

Proponents: Robert Throssell, Montana Association of Clerk and
Recorders
Sue Haverfield, Flathead County Clerk and
Recorder, Election Administrator
Diane Mellem, Hill County Clerk and Recorder

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 9 - 24}

SEN. SUE BARTLETT, SD 27, HELENA, handed out EXHIBIT(1), EXHIBIT(2), and EXHIBIT(3). This bill allows for special district elections to be canceled and an appointment made to fill the office in which there are no candidates for the election. If there is a single candidate for an office then the election does not need to be held. The candidate can be elected by acclamation. In a number of special districts, Water and Sewer, Urban Transportation, Park, Fire, Fire Service Areas, Hospital, Conservation, and Irrigation, there are many instances when there are no candidates or only one candidate. Currently, the election still must be held, with exception to the Irrigation and Conservation Districts. The cost of those elections are charged and paid for by the individual district. The outcome may be a number of write-ins. Where there are no candidates, someone may be elected by write-in who never wanted to serve and will not serve. They end up with nothing, but they paid money for the election. The one additional piece in this bill is a section that only affects Water and Sewer Districts. This portion says if no one is serving on the Board of Directors for the Water and Sewer District and if there are no candidates in an election, then an election is not needed, but the County Commission can elect an entirely new board to try and start over. Once the new board is appointed they determine the terms, then they go into a regular election process again. There are Water and Sewer Districts in some areas of the state where they have had no Board of Directors and no one ever files to run for a directorship, so those districts have no governance structure. We need to address how to get out of that situation and get a functioning Board of Directors.

Proponents' Testimony:

Robert Throssell, Montana Association of Clerk and Recorders, said the Association and Election Administrators like elections, support elections, and would like people to vote in all elections but this bill addresses a problem that has been experienced statewide. In many of these districts there is no interest and the Election Administrators are required by law to prepare for an election when no candidates have filed. This is an expense that is passed back to these districts. This provides one more step to pull the election package together. If we are going to have to put on a CI-75 election it would be nice to eliminate elections where there is not any interest. The Election Administrators do not want to prohibit the people in these

districts from creating these boards and electing the people they want to these boards but in many districts, interest is not there.

Sue Haverfield, Flathead County Clerk and Recorder, Election Administrator, said nothing is more frustrating to an Election Administrator than to print ballots, advertise an election, and have nobody show up. We would like to eliminate the frustration we feel. Normally people who are interested in serving on these boards will attend the meetings in their own communities, but we send out letters to the non-functioning boards and get no replies. Then we hold an election, no one shows up, and we do not even get a write-in candidate elected. It is time to clean up this law to eliminate the cost to the districts and to eliminate the election. If one person files to serve for one term, the person should be appointed by acclamation rather than going through the process. The election should be eliminated if there are no file candidates so it can go to the appointment process. Generally those appointments would be made on the day the election would have been held, so the person takes office and serves that term as it should have been served.

Questions from Committee Members and Responses:

SEN. HARGROVE asked about the selection of districts in the bill and why they were chosen because there are a lot of other districts as well. **SEN. BARTLETT** explained the districts in the bill are those that are required to hold elections. The other types of boards are generally appointed. They are Solid Waste Districts, Television Districts, Housing Authorities, Museum Boards, County Park Board, County Fair Commission, District Weed Board, Rodent Control Board, Mosquito Control Board, and Cemetery Districts. They are addressed in Section 1 of the bill as boards that are generally appointed. There is a provision in the existing statute that administrative boards, districts, and commissions, may be made elective. In the event any of those are elective, we are adding the language to that piece of the law. She doesn't know of any that are, but the language is a safe guard. **SEN. HARGROVE** stated a Resort Area District would probably always have plenty of people looking for an election.

SEN. TESTER asked what point in time the election is called off. **Joe Kerwin, Deputy of Elections, Secretary of State**, replied it would be once the candidate filing period has closed. At that point they would know how many candidates had filed and then they would make the determination whether to hold the election. **SEN. TESTER** asked if the write-in candidates would be an issue. **Mr. Kerwin** explained the write-in candidates would not be factored into the equation on determining whether to hold the election or not. If the election was not held there would not be write-ins.

Closing by Sponsor:

SEN. BARTLETT stated this would eliminate the opportunity for someone to be selected by write-in if there are no candidates or one candidate for a position. She had some hesitation when she was first approached about this bill because she believes in the election process, but she knows from her experience as an election administrator she would pursue these districts to get their candidates filed and generally there would only be one per office. This does not preclude the opportunity when there is competition. When there is controversy in a district, there will be more than one candidate filing for those posts and will be well worth having an election.

{Tape : 1; Side : A; Approx. Time Counter : 24 - 50}

SEN. TESTER took over as Acting Chairman.

HEARING ON SB 471

Sponsor: SEN. MACK COLE, SD 4, HYSHAM

Proponents: Mike Foster, Montana Contractors' Association

Opponents: Jack Stults, Administrator of Water Resources Division, Department of Natural Resources
Russ Katherman, Contracting Officer of the Architecture and Engineering Division, Department of Administration

Opening Statement by Sponsor:

SEN. MACK COLE, SD 4, HYSHAM, this bill is designated to tighten the bid war procedure and make them more consistent among agencies. Agencies tend to vary in their procedures to award bids. The lack of consistency is the reason for this bill. One agency may reject a bid simply for a failure to enter a single unit price where it is required, while other agencies decide to waive certain bid imperfections on the basis that it is in the agency's review and public interest to do so. State agencies refer to this as flexibility. That flexibility opens the door for subjectivity, which is contrary to the intent of the competitive bid system. The competitive bid system allows contractors to have one chance at winning a bid. Contractors live in a world of competition and risk and they like tight rules, so they have an equal and fair opportunity to be the winner. Subjectivity that allows imperfections to be waived subverts the process and leaves contractors with a feeling that rules may not be applied evenly to all bidders. Contractors

Vote: Roll call vote was taken. Motion carried 3-2 with SEN. WELLS and SEN. HARGROVE voting no.

EXECUTIVE ACTION ON SB 405

Motion/Vote: SEN. WILSON moved that SB 405 DO PASS. Motion failed 4-1 with SEN. WILSON voting aye.

Motion/Vote: SEN. HARGROVE moved that SB 405 BE TABLED. Motion carried 4-1 with SEN. WILSON voting no.

EXECUTIVE ACTION ON SB 455

Amendments were distributed to committee, EXHIBIT(9).

Motion/Vote: SEN. WILSON moved that SB 455 BE AMENDED. Motion carried 5-0.

Motion/Vote: SEN. WILSON moved that SB 455 DO PASS AS AMENDED. Motion carried 5-0.

EXECUTIVE ACTION ON SB 457

Motion/Vote: SEN. TESTER moved SB 457 DO PASS. Motion carried 5-0.

EXECUTIVE ACTION ON SB 488

Motion/Vote: SEN. WILSON moved that SB 488 DO PASS. Motion carried 5-0.

EXECUTIVE ACTION ON SJR 12

Motion/Vote: SEN. TESTER moved that SJR 12 DO PASS. Motion carried 5-0.

County of Hill

OFFICE OF THE CLERK AND RECORDER
HILL COUNTY COURTHOUSE
HAVRE, MONTANA 59501

SENATE STATE ADMIN.

EXHIBIT NO. 7DATE 2-18-99BILL NO. SB 488

Clerk and Recorder Diane E. Mellem
Deputy Carolyn Patrick
Deputy E. A. 'Betty' Williams
Deputy

17 February, 1990

TO: MEMBERS OF THE SENATE STATE ADMINISTRATION COMMITTEE

From: Diane Mellem, Hill County Clerk and Recorder

RE: Senate Bill 488

Dear Members of the Committee:

I truly wish I could be there in person to testify in support of SB 488. This bill as introduced by Senator Bartlett is a common sense bill in elections. It does not try to steal appointment power from existing boards and replace the power with County Commissioner appointment authority. As the bill moves from one type of district to another, it is the intent of the bill to vest the appointment power as it is now provided in law. However, the main intent of the bill is to allow a provision whereby elections do not have to be held when there are no candidates filed, or, to allow election by acclamation when only one candidate has filed for a position. As Senator Bartlett can testify from personal experience, these elections are usually conducted with a blank write-in ballot, or, a ballot containing the one name of the person the other directors could arm twist into agreeing to be put on the ballot. Both these ballot instances COST TAXPAYER dollars and could be easily handled through the manner set forth in SB 488. This bill does not prevent elections where contests occur, but definitely allows a means to arrive at directors when an election is merely a 'rubber stamp' affair.

As a post script to this issue, please be advised that we always get numerous write-ins on non-candidate ballots. They range from real people to Mickey Mouse; HOWEVER, we have never had anyone accept when notified of the write-in votes.

Thank you 'very sincerely' for this opportunity to comment and request your support for SB 488.

SENATE BILL 488

SENATE STATE ADMIN.

EXHIBIT NO. 2

DATE 2-18-99

BILL NO. SB 488

List of Sections:

- Section 1. Administrative boards, districts or commissions which may be made elective**
- Section 2. Changes internal reference to conform to Section 3**
- Section 3. Water and sewer districts**
- Section 4. Urban transportation districts**
- Section 5. Park districts**
- Section 6. Fire districts**
- Section 7. Fire service areas**
- Section 8. Hospital districts**
- Section 9. Conservation districts**
- Section 10. Conservation districts**
- Section 11. Irrigation districts**

Submitted by Sue Bartlett, Senate District 27

13-1-304. Duties of officials when election not held. If a scheduled election is not necessary or is canceled for any reason, the governing body or official making the determination shall immediately notify the election administrator in writing. If the election is not necessary because of the number of candidates filed, the election administrator shall make the determination and notify the proper governing body.

History: En. Sec. 25, Ch. 571, L. 1979.

Cross-References

Registration lists not required when election not to be held, 13-2-115.

Precinct register not required when election not held, 13-2-116.

When primary election unnecessary, 13-10-209.

When nonpartisan primary election unnecessary, 13-14-115.

Part 4

Political Subdivision Elections

13-1-401. Manner of conducting general elections for political subdivisions required to hold annual elections. (1) Any political subdivision required to hold annual elections under 13-1-104(3) may cooperate with school districts having similar district boundaries to hold the election at the same location. The election administrator or deputy election administrator appointed under the provisions of 13-1-301 shall cooperate with the school district election administrator to share costs, as provided in 13-1-302.

(2) A political subdivision subject to 13-1-104(3) may, with the consent of the election administrator or deputy election administrator, conduct its annual election at an annual meeting of the political subdivision or at another convenient location within the political subdivision.

(3) A political subdivision election subject to 13-1-104(3) may be conducted by mail ballot as provided in Title 13, chapter 19.

(4) The election administrator or deputy election administrator conducting an election under the provisions of subsection (1), (2), or (3) shall give notice of the election not less than 20 days or more than 40 days before the day of the election by display advertisement at least two times in a newspaper of general circulation within the political subdivision. The election administrator or deputy election administrator may notify the public of the election by additional posting of notices or radio and television announcements.

History: En. Sec. 8, Ch. 27, L. 1981; amd. Sec. 29, Ch. 196, L. 1985.

Cross-References

Time for election of directors of county water and sewer districts, 7-13-2236.

Election of local port authority commissioners, 7-14-1106.

Time for election of trustees of fire district, 7-33-2106.

Procedure for election of trustees of hospital district, 7-34-2116 through 7-34-2118.

Payment of election costs, 13-1-302.

School elections, Title 20, ch. 20.

Procedure for election of commissioners of irrigation district, 85-7-1702, 85-7-1710.

Procedure for election of commissioners of drainage district, 85-8-302, 85-8-304, 85-8-306.

SENATE STATE ADMIN.

EXHIBIT NO. 3

DATE 2-18-99

BILL NO. 488

DATE February 18, 1999

[illegible]

DATE February 18, 1999

SENATE COMMITTEE ON State Administration

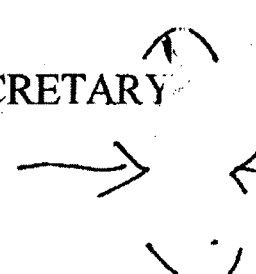
BILLS BEING HEARD TODAY: SB 488, SB471, SJ 12

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
JACK STULTS	444-6605	DNRRC - WATER	SB 471		✓
Robert Throssell	442-0230	MT ASSN Clerk & Records	SB 488	✓	
Ann Haverfield	758-5530	MACR Shattuck Co.	SB 488	✓	
Claudia Clifton	444-4613	State Auditor	SJ 12	✓	
Mike Foster	442-4162	MT Contractors Assoc.	SB 471	✓	
Russ KATHERMAN	444-3332	Dept. of Admin A/E Div	471		✓
Jim WHALEY	444-3106	A/E DIVISION	471		✓
Chris Tweeten	444-1380	AG's OFFICE	SJR 12	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY



LEGISLATIVE TAPE LOG

COMMITTEE:

Senate State Administration

DATE:

2-18-99

MINUTES

CONTENT NOTES

10:00

9-24

Opening Statement - SB488
Proponents - Questions

24-50

Opening Statement SB471
Proponents - Opponents
Questions

50-69

Questions - SB471
Sen. Lister to Sen. Cole
Opening Statement - SJR 12 & Hearing

69-89

Executive Action SB228
" " SB382

2/A

89-99

Discussion - Exec. Action - SB382
Exec. Action - SB465
" " SB455
" " SB457
" " SB488
" " SJR 12



SENATE STANDING COMMITTEE REPORT

February 19, 1999

Page 1 of 1

Mr. President:

We, your committee on State Administration report that Senate Bill 488 (first reading copy -
- white) do pass.

Signed: _____

Mack Cole
Senator Mack Cole, Chair

- END -

Committee Vote:
Yes 5, No 0.

410934SC.sjo

INDEX TO BILLS IN COMMITTEE

November 12, 1999

- Committee: (H) Local Government -

01:35 PM

-
- SB 366** **SPONSOR:** Bartlett, Sue **SHORT TITLE:** Mobile home recycling
 REFERRED ON: 03/02/1999 **HEARD ON:** 03/11/1999
 TABLED ON: 03/24/1999
 FINAL DISPOSITION 04/22/1999 (H) Died in Standing Committee
-
- SB 415** **SPONSOR:** Jabs, Reiny **SHORT TITLE:** County resident bid preference on county contracts
 REFERRED ON: 02/22/1999 **HEARD ON:** 03/11/1999
 EXECUTIVE ACTION: 03/12/1999 Bill Concurred -- VOTE: 12 - 1
 FINAL DISPOSITION 04/06/1999 Chapter Number Assigned
-
- SB 417** **SPONSOR:** Waterman, Mignon **SHORT TITLE:** Medical services for inmates of county detention facilities
 REFERRED ON: 03/02/1999 **HEARD ON:** 03/23/1999
 EXECUTIVE ACTION: 03/24/1999 Bill Concurred as Amended -- VOTE: 13 - 5
 FINAL DISPOSITION 04/29/1999 Chapter Number Assigned
-
- SB 423** **SPONSOR:** Mahlum, Dale **SHORT TITLE:** Revise hearing requirement for zoning of annexed land
 REFERRED ON: 03/02/1999 **HEARD ON:** 03/23/1999
 EXECUTIVE ACTION: 03/24/1999 Bill Concurred -- VOTE: 15 - 2
 FINAL DISPOSITION 04/20/1999 Chapter Number Assigned
-
- SB 488** **SPONSOR:** Bartlett, Sue **SHORT TITLE:** Revise election procedures for certain areas and districts
 REFERRED ON: 03/02/1999 **HEARD ON:** 03/11/1999
 EXECUTIVE ACTION: 03/12/1999 Bill Concurred -- VOTE: 13 - 0
 FINAL DISPOSITION 04/06/1999 Chapter Number Assigned
-
- SB 504** **SPONSOR:** Lynch, J.D. **SHORT TITLE:** Clarify city limits in consolidated government for gas/fuel tax rev allocation
 BY REQUEST OF: (S) Local Government Standing Committee
 REFERRED ON: 03/02/1999 **HEARD ON:** 03/23/1999
 EXECUTIVE ACTION: 03/24/1999 Bill Concurred as Amended -- VOTE: 14 - 0
 FINAL DISPOSITION 04/22/1999 Chapter Number Assigned
-

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN CHRIS AHNER**, on March 11, 1999 at
3:00 P.M., in Room 104 Capitol.

ROLL CALL

Members Present:

Rep. Chris Ahner, Chairman (R)
Rep. Rod Bitney, Vice Chairman (R)
Rep. David Ewer, Vice Chairman (D)
Rep. Joan Andersen (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Roy Brown (R)
Rep. Edith Clark (R)
Rep. Tom Dell (D)
Rep. Steven Gallus (D)
Rep. Toni Hagener (D)
Rep. Bob Lawson (R)
Rep. Jeff Mangan (D)
Rep. Mark Noennig (R)
Rep. Carley Tuss (D)
Rep. Cindy Younkin (R)

Members Excused: Rep. Sam Kitzenberg (R)
Rep. Scott J. Orr (R)
Rep. Trudi Schmidt (D)

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Kimberly Walkenhorst, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB415, SB366, SB348, SB488,
3/11/1999

Executive Action: SB488, SB348, SB415, SB239

Loretta Miller, Green Meadow Salvage EXHIBIT(3)EXHIBIT(4)

{Tape : 1; Side : B; Approx. Time Counter : 4.1}

Terry Morrison, Montana Tow Trucks Association

{Tape : 1; Side : B; Approx. Time Counter : 8.9}

Informational:

Jani Sensibaugh, Department of Environmental Equality

{Tape : 1; Side : B; Approx. Time Counter : 9.9}

Questions from Committee Members and Responses:

{Tape : 1; Side : B; Approx. Time Counter : 12.3}

Closing Statement by Sponsor: Senator Sue Bartlett

{Tape : 2; Side : A; Approx. Time Counter : 6.6}

HEARING ON SB348

Opening Statement by Sponsor: Senator Sue Bartlett

{Tape : 2; Side : A; Approx. Time Counter : 12.8}

Proponents' Testimony:

Alec Hansen, Montana League of Cities and Towns

{Tape : 2; Side : A; Approx. Time Counter : 17.2}

Jani McCall, City of Billings

{Tape : 2; Side : A; Approx. Time Counter : 21}

Dave Nielson, City Attorney Helena

{Tape : 2; Side : A; Approx. Time Counter : 21.3}

Opponents' Testimony: None

Questions from Committee Members and Responses:

{Tape : 2; Side : B; Approx. Time Counter : 22.4}

Closing Statement by Sponsor: Senator Sue Bartlett

{Tape : 3; Side : A; Approx. Time Counter : 2}

HEARING ON SB488

Opening Statement by Sponsor: Senator Sue Bartlett EXHIBIT(5)

{Tape : 3; Side : A; Approx. Time Counter : 3.8}

Proponents' Testimony:

Robert Throssell, Montana Association of Clerks and Recorders
{Tape : 3; Side : A; Approx. Time Counter : 9}

Duane Winslow, Director of Elections for Yellowstone County
{Tape : 3; Side : A; Approx. Time Counter : 11.1}

Shelly Vance, Clerk and Recorder Gallatin County
{Tape : 3; Side : A; Approx. Time Counter : 13.6}

Opponents' Testimony: None

Questions from Committee Members and Responses:

{Tape : 3; Side : A; Approx. Time Counter : 14.8}

Closing Statement by Sponsor: Senator Sue Bartlett

{Tape : 3; Side : A; Approx. Time Counter : 14.9}

EXECUTIVE ACTION ON SB488

Motion: REP. YOUNKIN moved that SB488 BE CONCURRED IN.

{Tape : 3; Side : A; Approx. Time Counter : 21.1}

Discussion:

{Tape : 3; Side : A; Approx. Time Counter : 21.4}

Vote: Motion carried 13-0.

{Tape : 3; Side : A; Approx. Time Counter : 21.5}

EXECUTIVE ACTION ON SB348

Motion: REP. NOENNIG moved that SB348 BE CONCURRED IN.

{Tape : 3; Side : A; Approx. Time Counter : 21.9}

Discussion:

{Tape : 3; Side : A; Approx. Time Counter : 22.1}

Vote: Motion carried 12-1 with Lawson voting no.

{Tape : 3; Side : A; Approx. Time Counter : 22.3}

EXECUTIVE ACTION ON SB415

Discussion:

{Tape : 3; Side : A; Approx. Time Counter : 23}

5
EXHIBIT 5
DATE 3-11-99
SQ 488

SENATE BILL 488

List of Sections:

- Section 1. Administrative boards, districts or commissions which may be made elective**
- Section 2. Changes internal reference to conform to Section 3**
- Section 3. Water and sewer districts**
- Section 4. Urban transportation districts**
- Section 5. Park districts**
- Section 6. Fire districts**
- Section 7. Fire service areas**
- Section 8. Hospital districts**
- Section 9. Conservation districts**
- Section 10. Conservation districts**
- Section 11. Irrigation districts**

Submitted by Sue Bartlett, Senate District 27

OVER

13-1-304. Duties of officials when election not held. If a scheduled election is not necessary or is canceled for any reason, the governing body or official making the determination shall immediately notify the election administrator in writing. If the election is not necessary because of the number of candidates filed, the election administrator shall make the determination and notify the proper governing body.

History: En. Sec. 25, Ch. 571, L. 1979.

Cross-References

Registration lists not required when election not to be held, 13-2-115.

Precinct register not required when election not held, 13-2-116.

When primary election unnecessary, 13-10-209.

When nonpartisan primary election unnecessary, 13-14-115.

Part 4

Political Subdivision Elections

13-1-401. Manner of conducting general elections for political subdivisions required to hold annual elections. (1) Any political subdivision required to hold annual elections under 13-1-104(3) may cooperate with school districts having similar district boundaries to hold the election at the same location. The election administrator or deputy election administrator appointed under the provisions of 13-1-301 shall cooperate with the school district election administrator to share costs, as provided in 13-1-302.

(2) A political subdivision subject to 13-1-104(3) may, with the consent of the election administrator or deputy election administrator, conduct its annual election at an annual meeting of the political subdivision or at another convenient location within the political subdivision.

(3) A political subdivision election subject to 13-1-104(3) may be conducted by mail ballot as provided in Title 13, chapter 19.

(4) The election administrator or deputy election administrator conducting an election under the provisions of subsection (1), (2), or (3) shall give notice of the election not less than 20 days or more than 40 days before the day of the election by display advertisement at least two times in a newspaper of general circulation within the political subdivision. The election administrator or deputy election administrator may notify the public of the election by additional posting of notices or radio and television announcements.

History: En. Sec. 8, Ch. 27, L. 1981; am. Sec. 29, Ch. 196, L. 1985.

Cross-References

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Payment of election costs, 13-1-302.

School elections, Title 20, ch. 20.

Procedure for election of commissioners of irrigation district, 85-7-1702, 85-7-1710.

Procedure for election of commissioners of drainage district, 85-8-302, 85-8-304, 85-8-306.

HOUSE OF REPRESENTATIVES

ROLL CALL ~~NOTE~~ LOCAL GOVERNMENT COMMITTEE

DATE 3-11-99 BILL NO. _____ NUMBER _____

MOTION: _____

NAME	NAME PRES.	EXC EXC
Rep. Joan Andersen	x	
Rep. Rod Bitney	x	
Rep. Sylvia Bookout-Reinicke	x	
Rep. Roy Brown	x	
Rep. Bart Campbell	x	
Rep. Edith Clark	x	
Rep. Tom Dell	x	
Rep. David Ewer	x	
Rep. Steven Gallus	x	
Rep. Toni Hagener	x	
Rep. Sam Kitzenberg		x
Rep. Bob Lawson	x	
Rep. Jeff Mangan	x	
Rep. Mark Noennig	x	
Rep. Scott J Orr		x
Rep. Trudi Schmidt		x
Rep. Carly Tuss	x	
Rep. Cindy Younkin	x	
Rep. Chris Ahner	x	

**HOUSE OF REPRESENTATIVES
VISITOR REGISTER**

Local Gov't COMMITTEE BILL NO. SB 488
DATE 3-11-99 SPONSOR(S) _____

PLEASE PRINT

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Bonnie Ramey	Jeff. Co. Clerk & Recorder	X	
Robert Throssell	MT ASSN CLERKS & Records	X	
Sue Haverfield	FLATHEAD Co. Clerk & Recorder	X	
Shelley Vance	Gallatin Co. MACR	X	
Duane Winslow	Yellowstone Co. MACR	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

House

COMMITTEE

Local GovernmentMINUTESCONTENT NOTES6.6 (B)TAPE 2
SIDE A
SIDE BClosing Statement by Sponsor12.8Opening Statement SB 348
Sen. Sue Bartlett17.2Proponents:Alic Hansen, mt League of Cities & Towns21.0Lani McCall, City of Billings21.3DAVE Nielson, City Att. HelenaOpponents: None22.4TAPE 3
SIDE AQuestions from Committee2.0Sponsor Closing Statement3.8Opening Statement SB 488
Sen. Sue Bartlett (EX 5)9.0Proponents: Robert Frosil, mt Clerk & Recorder11.1Dwayne Ninslow, Dir Elect. Yellowstone Counties12.5Sgt. Haversfield, Clerk & Recorder13.6Shelley Vance, Clerk & Recorder Gallatin Co.14.8Questions from Committee.Closing Statement by Sponsor

*** **

E.A. SB 488

21.1 - moved by Yonkin

21.4 - Discussion

- 13-0

DO CONCUR

BROWN CARRY

*** **

E.A. SB 348

21.9 moved Noennig

22.1 Disc

DO CONCUR

22.3 ~~12-1~~ 12-1 Lawson NOENNIG CARRY

*** **

E.A. SB 415

23.0 Discussion

24.4 Moved Yonkin

24.5 Discussion

DO CONCUR

28.2 12-1 Ewer HAGENER CARRY

XX+ XXX X+

E.A. SB ~~239~~ 239

Discussion

30.2

~~13-0~~ ~~13-0~~ ~~13-0~~

SIDE B 1.5

Moved Anderson (Ex 6)

11.3

Noennig moved to amend. (del sen. amend)

11.7

Discussion

17.6

Noennig withdraws, Clark Amends

18.1

13-0

9-4

Ewer
Lawson
Brown

18.2

Moved by Yonkin

6:00pm



HOUSE STANDING COMMITTEE REPORT

March 12, 1999

Page 1 of 1

Mr. Speaker:

We, your committee on **Local Government** report that **Senate Bill 488** (third reading copy -- blue) be concurred in.

Signed: Chris Ahner
Representative Chris Ahner, Chair

To be carried by Representative Roy Brown

- END -

Committee Vote:
Yes 13, No 0.

561027SC.ham

11:15
3/25



AN ACT REVISING THE LAW RELATING TO THE ELECTION OR APPOINTMENT OF THE GOVERNING BODIES OF COUNTY WATER AND SEWER DISTRICTS, URBAN TRANSPORTATION DISTRICTS, COUNTY PARK DISTRICTS, RURAL FIRE DISTRICTS, FIRE SERVICE AREAS, HOSPITAL DISTRICTS, CONSERVATION DISTRICTS, AND IRRIGATION DISTRICTS; AND AMENDING SECTIONS 7-1-201, 7-13-2258, 7-13-2262, 7-14-212, 7-16-2421, 7-33-2106, 7-33-2403, 7-34-2117, 7-34-2121, 76-15-303, AND 85-7-1702, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-1-201, MCA, is amended to read:

"7-1-201. Boards. (1) A board of county commissioners may by resolution establish the administrative boards, districts, or commissions allowed by law or required by law to be established pursuant to 7-1-202, 7-1-203, and this section and listed in 7-1-202. The resolution creating an administrative board, district, or commission must specify:

- (a) the number of board, district, or commission members;
- (b) the terms of the members;
- (c) whether members are entitled to mileage, per diem, expenses, and salary; and
- (d) any special qualifications for membership in addition to those established by law.

(2) (a) An administrative board, district, or commission may be assigned responsibility for a department or service district.

(b) An administrative board, district, or commission may:

- (i) exercise administrative powers as granted by resolution, except that it may not pledge the credit of the county or impose a tax unless specifically authorized by state law;
- (ii) administer programs, establish policy, and adopt administrative and procedural rules.

(c) The resolution creating an administrative board, district, or commission must grant the board, district, or commission all powers necessary and proper to the establishment, operation, improvement,

maintenance, and administration of the department or district.

(d) If authorized by resolution, an administrative board, district, or commission may employ personnel to assist in its functions.

(3) (a) Administrative boards, districts, and commissions may be made elective.

(b) If an administrative board is made elective and if the number of candidates is equal to or less than the number of positions to be elected, the election administrator may cancel the election in accordance with 13-1-304. A position for which there were no nominees must be filled by appointment by the county commissioners for the same term as if the position were filled by election. If there is only one nominee for a position, the nominee may be declared elected by acclamation.

(4) Administrative boards, districts, and commissions may not sue or be sued independently of the local government unless authorized by state law.

(5) Members must be appointed by the county commissioners. The county commissioners shall post prospective membership vacancies at least 1 month prior to filling the vacancy.

(6) The county commissioners shall maintain a register of appointments, including:

(a) the name of the board, district, or commission;

(b) the date of appointment and confirmation, if any is required;

(c) the length of term;

(d) the name and term of the presiding officer and other officers of each administrative board, district, or commission; and

(e) the date, time, and place of regularly scheduled meetings.

(7) Terms of all members, except elected members, may not exceed 4 years. Unless otherwise provided by resolution, members shall serve terms beginning on July 1 and shall serve at the pleasure of the county commissioners.

(8) An administrative board, district, or commission must consist of a minimum of 3 members and must have an odd number of members.

(9) The resolution creating an administrative board, district, or commission may provide for voting or nonvoting ex officio members.

(10) Two or more local governments may provide for joint boards, districts, or commissions to be established by interlocal agreements.

(11) A majority of members constitutes a quorum for the purposes of conducting business and exercising powers and responsibilities. Action may be taken by a majority vote of members present and voting, unless the resolution creating the board, district, or commission specifies otherwise.

(12) An administrative board, district, or commission shall provide for the keeping of written minutes, including the final vote on all actions and the vote of each member.

(13) An administrative board, district, or commission shall provide by rule for the date, time, and place of regularly scheduled meetings and file the information with the county commissioners.

(14) Unless otherwise provided by law, a person must be a resident of the county to be eligible for appointment to an administrative board, district, or commission. The county commissioners may prescribe by resolution additional qualifications for membership.

(15) A person may be removed from an administrative board, district, or commission for cause by the county commissioners or as provided by resolution.

(16) A resolution creating an administrative board, district, or commission must contain, if applicable, budgeting and accounting requirements for which the board, district, or commission is accountable to the county commissioners."

Section 2. Section 7-13-2258, MCA, is amended to read:

"7-13-2258. **Effect of failure to qualify for office.** If a person elected fails to qualify, the office ~~shall~~ must be filled as if there were a vacancy in ~~such~~ the office as provided in 7-13-2262(2)."

Section 3. Section 7-13-2262, MCA, is amended to read:

"7-13-2262. ~~Vacancies~~ Insufficient candidates -- vacancies on board of directors -- appointment of entire board. (1) If the number of candidates is equal to or less than the number of positions to be elected, the election administrator may cancel the election in accordance with 13-1-304. If an election is not held, the board of directors shall declare elected by acclamation the candidate who filed a nominating petition for the position. If no candidate filed a nominating petition for the position, the board of directors shall make an appointment to fill the position and the term is the same as if the director were elected.

(2) Any ~~Except as provided in subsections (3) and (4), any~~ vacancy in the board of directors,

whether the vacant office is elective or appointive, ~~shall~~ must be filled by the remaining directors.

(3) If there are no directors remaining on the board and no nominees for any director position to be elected, the county commissioners may appoint the number of directors specified in 7-13-2232(1). If the district lies in more than one county, the county commissioners of each county with territory included in the district shall jointly appoint the directors. The county commissioners shall stagger the terms of the directors appointed.

(4) If the boundaries of the district include any municipality or municipalities and a new board must be appointed as provided in subsection (3), the board shall include one additional director to be appointed by the mayor of the municipality for which the additional director is allowed.

(5) Following the appointment of a board in accordance with subsection (3), the directors must be elected as provided in this part."

Section 4. Section 7-14-212, MCA, is amended to read:

"7-14-212. District to be governed by transportation board. (1) The district must be governed by a transportation board. The commissioners and the governing bodies of each city or town included or partially included in the district shall determine if the board is to be elected or appointed.

(2) The commissioners and the governing body by resolution shall:

- (a) determine the number of board members;
- (b) set the term of office;
- (c) determine the makeup of the board with respect to the number of appointed members that will represent each county, city, or town;
- (d) establish a procedure for selecting the initial members of an elected board. The initial members shall serve until the first county general election after their appointment.

(e) determine the number of candidates for an elected board whose names must be placed on the ballot in the county general election, based on the results of the primary election; and

(f) establish a procedure for filling vacancies on the board, including a provision for public notice.

(3) The commissioners and the governing body may, at any time, adopt a resolution changing the method by which the members of the board are selected. The resolution must contain a provision that the term of office of the current members of the board may not be shortened.

(4) If the board is elected and if the number of candidates is equal to or less than the number of positions to be elected, the election administrator may cancel the election in accordance with 13-1-304. If an election is not held, the board shall declare elected by acclamation each candidate who filed a nominating petition for a position.

(5) If there are no nominees for an elective office of a member of the board, the vacancy must be filled as provided in subsection (2)(f).

(6) A member of the board taking office pursuant to subsection (4) or (5) serves a term of office as if elected to that office."

Section 5. Section 7-16-2421, MCA, is amended to read:

"7-16-2421. Election or appointment of commissioners. (1) After appointment of the initial commission and except in the case of vacancies, all members of the county park district commission must be elected by the electors of the district.

(2) The election of members to the commission must be held in conjunction with the school elections held pursuant to 20-3-304.

(3) Candidates for the office of member of the county park district commission must be nominated by petition filed with the office of the election administrator not earlier than 135 days or later than 75 days prior to the election day and signed by at least five electors of the district.

(4) If the county park district lies in more than one county, the petition for nomination must be presented to the election administrator whose county contains the largest percentage of the territory of the district.

(5) If the number of candidates is equal to or less than the number of positions to be elected, the election administrator may cancel the election in accordance with 13-1-304. If an election is not held, the county governing body shall declare elected by acclamation each candidate who filed a nominating petition for a position. If no nomination petition is filed for an office, the county governing body shall appoint a member to fill the term. A person appointed pursuant to this subsection has the same term and obligations as a person elected to fill the office. ~~If there are no petitions of nomination for members of the commission, no election need be held.~~

(6) The term of office of elected members commences upon their being elected and qualified. The

term of office of an elected member of the county park district commission is 4 years, except that a simple majority of the members of the first elected board shall serve terms of 2 years, with a minority of the board serving terms of 4 years. The members serving 2-year terms must be selected by lot.

(7) A vacancy ~~in the~~ occurring during the term of office of a member must be filled by appointment by the remaining members of the commission. The term of the appointed member expires upon the election and qualification of an elected successor or upon the election of a member to fill the unexpired term of the vacant office. The election must be held at the next scheduled school election held pursuant to 20-3-304."

Section 6. Section 7-33-2106, MCA, is amended to read:

"7-33-2106. Details relating to board of trustees of fire district. (1) (a) The five trustees initially appointed by the county commissioners ~~shall~~ hold staggered terms of office until their successors are elected or appointed and qualified as ~~hereinafter~~ provided in this section.

(b) The initial trustees' terms of office ~~shall~~ must be drawn by lot and include:

(i) 3 years for one trustee;

(ii) 2 years for two trustees; and

(iii) 1 year for two trustees.

(c) Upon expiration of the terms provided in subsection (1)(b), each trustee shall serve a 3-year term of office.

(2) Trustees ~~shall~~ must be elected as provided in ~~subsection (3) of this section~~, 13-1-104(3), and 13-1-401, and subsection (3) of this section or appointed as provided in subsection (4) of this section. The term of office ~~shall be~~ is 3 years beginning at the first district meeting following their election or appointment and continuing until their successors are elected or appointed and qualified. Appointments to fill vacancies ~~shall~~ occurring during the term of office of a trustee must be made by the county governing body and appointees shall hold office until the next regular election. An elector, as defined in Title 13, who resides in the district or any holder of title to lands within the district who presents a proof of payment of taxes on the lands at the polling place is eligible to vote in the election.

(3) Candidates for the office of trustee of the fire district to be filled by election may be nominated by petition filed with the election administrator or deputy election administrator at least 75

days before the election day and signed by at least five electors of the district.

(4) If the number of candidates is equal to or less than the number of positions to be elected, the election administrator may cancel the election in accordance with 13-1-304. If an election is not held, the county governing body shall declare elected by acclamation each candidate who filed a nominating petition for a position. If ~~no nominations are~~ a nomination is not made for one or more trustee offices, the county governing body shall appoint one or more trustees as necessary to fill those offices. A trustee taking office pursuant to this subsection serves the trustee term of office as if that trustee had been elected.

(5) The trustees shall organize by choosing a ~~chairman~~ presiding officer and appointing one member to act as secretary."

Section 7. Section 7-33-2403, MCA, is amended to read:

"7-33-2403. Operation of fire service area. (1) Whenever the board of county commissioners has established a fire service area, the commissioners may:

- (a) govern and manage the affairs of the area;
- (b) appoint five qualified trustees to govern and manage the affairs of the area; or
- (c) authorize the election of five qualified trustees to govern and manage the affairs of the area.

The term of office and procedures for nomination and election are the same as those provided for election of rural fire district trustees in 7-33-2106.

(2) If the commissioners appoint trustees under subsection (1), the provisions of 7-33-2105 apply and 7-33-2106 ~~shall apply~~ applies whether the trustees are elected or appointed, except that the trustees shall prepare annual budgets and request a schedule of rates ~~therefor~~ for the budget."

Section 8. Section 7-34-2117, MCA, is amended to read:

"7-34-2117. Procedure for the conduct of election for trustees ~~-- appointment of trustees~~. (1) All elections of trustees following the election of the first board of trustees ~~shall~~ must be conducted at the time provided in 13-1-104(3) and in the manner provided by 13-1-401.

(2) Candidates for the office of trustee must be nominated by petition filed with the election administrator or deputy election administrator at least 75 days before the election day and signed by at

least five electors of the district.

(3) If there is no nomination petition filed, it ~~shall~~ is not be necessary to hold an election but the board of county commissioners shall appoint a trustee to fill the term; ~~the term to be the same as if the trustee were elected.~~ If there is only one nominee for a ballot position, it is not necessary to hold an election for that position and the board of county commissioners shall declare elected by acclamation the candidate who filed a nominating petition for the position.

(4) A member of the board taking office pursuant to subsection (3) serves a term of office as if elected to that office."

Section 9. Section 7-34-2121, MCA, is amended to read:

"7-34-2121. Vacancies. A vacancy upon the board of trustees occurring during the term of office of a trustee or in the office of clerk ~~shall~~ must be filled by appointment by the remaining members, and the appointee shall serve until the next ensuing election for trustees."

Section 10. Section 76-15-303, MCA, is amended to read:

"76-15-303. General election -- election by acclamation -- appointment. (1) All qualified electors within the district are eligible to vote in the election.

(2) Except as provided in subsection (5), the candidate or, if more than one supervisor position is to be filled by the general election, the candidates who receive the largest number, respectively, of the votes cast in the election are the elected supervisors for the district.

(3) In the general election, the names of the individuals nominated must be printed, as provided under 13-12-205, upon ballots, with a square before each name and a direction to insert an "X" mark in the square before any three names to indicate the elector's preference.

(4) The election administrator in each county shall prepare suitable nonpartisan ballots or place the names of candidates on the regular general election ballot in the same manner as other nonpartisan candidates for the election of supervisors. The ballots must be delivered to the election judges in those precincts that contain registered electors prior to each general election and each primary election, if necessary. The election judges and other election officials in the precincts shall submit the ballots to qualified electors, conduct the election, and tabulate the results of the election in the manner provided

in Title 13.

(5) (a) Except as provided in subsection (5)(b), if the number of candidates nominated is equal to or less than the number of positions to be elected, the election administrator shall give notice that an election will not be held.

(b) The governing body may require that an election be held if, not more than 10 days after the close of filing by candidates, the governing body passes a resolution to hold an election and notifies the election administrator.

(c) If an election is not held, the governing body shall declare elected by acclamation the candidate who filed a nominating petition for the position. If ~~a~~ no candidate has ~~not~~ filed a nominating petition for the position, the governing body shall make an appointment to fill the position. Supervisors taking office pursuant to this subsection serve a term as if elected to the position."

Section 11. Section 85-7-1702, MCA, is amended to read:

"~~85-7-1702. Regular election~~ Election or appointment of commissioners -- term of office. (1) The regular election for commissioners in each district must be held annually in accordance with 13-1-104 and 13-1-401.

(2) Candidates for the office of commissioner may be nominated by petition filed with the election administrator or deputy election administrator at least 75 days before the election and signed by at least five electors of the district. If no nominations are made, the following procedures must be followed:

(a) For elections held in accordance with 13-1-401(1), the electors of the district shall write on the ballots the name of the person or persons for whom they desire to vote.

(b) For elections held in accordance with 13-1-401(2), the electors of the district may either accept nominations from the floor or write on the ballots the name of the person or persons for whom they desire to vote.

(3) ~~If there is only one nominee for a ballot position, the nominee may be declared elected by acclamation or in accordance with 13-1-304.~~ If the number of candidates is equal to or less than the number of positions to be elected, the election administrator may cancel the election in accordance with 13-1-304. If an election is not held, the county governing body shall declare elected by acclamation the candidate who filed a nominating petition for the position. If no candidate filed a nominating petition for

the position, the board of commissioners shall make an appointment to fill the position and the term is the same as if the commissioner were elected.

(4) Within 40 days following their election, the commissioners shall meet and organize as a board by electing a president from their number and a secretary, who may or may not be a commissioner, and who shall each hold office at the pleasure of the board. The term of office of each commissioner begins on the date of the organizational meeting after the regular election and continues for 3 years and until the election and qualification of ~~his~~ a successor.

(5) Commissioners are elected by the electors of the entire district."

- END -